IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2006

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.1948 of 2004

The Management of
Aravind Spinners Private Limited,
Vellalankulam,
Tenkasi Road,
Tirunelveli 627 008.
represented by its Director .. Petitioner

Vs

1. State of Tamil Nadu rep. by the
   Secretary to Government,
   Labour & Employment Department,
   Fort St. George, Chennai - 9.

2. Nellai Kattabomman Mavataa Anna
   Panchalai Thozhilalar Sangam
   Aravind Spinning Mills Branch
   Vellalankulam, Tirunelveli
   represented by its Secretary.

3. The Presiding Officer,
   Labour Court,
   Tirunelveli .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari for the reasons as stated therein.

For Petitioner : Mr.S.Ravindran
For Respondents : Mr.K.Balu,
Additional Government Pleader for R1
Mr.Munian for R2

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O R D E R

The Writ Petition has been filed to issue a writ of Certiorari to call for the records of the first respondent in G.O. (D) No.1044, Labour & Employment and quash its order, dated 2.12.2002.

The facts of the case, as stated by the petitioner, are as follows:

2. The petitioner is a spinning mill having about 11,000 spindles. As on the date of the filing of the writ petition, nearly 140 workmen were working. The workmen of the petitioner mill were the Members of four trade unions including the second respondent union. The petitioner used to enter into settlements in terms of Section 18(1) of the Industrial Disputes Act, 1947, in respect of wages and other service conditions. On 29.2.1996, the petitioner entered into a settlement, under Section 18 (1) of the Industrial Disputes, Act, 1947, with the second respondent Union and other unions. The settlement provided for substantial increase in wages and it also prescribed certain norms for working. Clause 12 of the settlement had provided that, based on the future requirements of the management, the workmen would be shifted from one category to another or from one Department to another. As per Clause 15 of the settlement, the management can direct such workmen to do alternative work also. Clause 21 of the settlement provided that the workmen can be shifted from one category to another, in terms of the order passed by the superiors, keeping in mind the official working hours of the mill. The settlement was in force from 1.3.1996 to 28.2.2001. The said settlement was filed before the Special Industrial Tribunal in I.D.Nos.1,2 and 3 of 1993. On 29.11.1996, an award had been passed by the Tribunal in terms of the said settlement.

3. On 15.10.2001, the petitioner issued orders to three workmen, namely, C.Subramaniam, R.Mathibalan and V.Murugan, directing them to accept redeployment of work. However, the said workmen refused to work in terms of the order, dated 15.10.2001, which had been passed strictly in accordance with the settlement, dated 29.2.1996. Therefore, a dispute arose between the management and the workmen and it was taken up for conciliation by the Labour Officer, Tirunelveli, in proceedings No.1421/01. The Labour Officer submitted his conciliation failure report, on 31.1.2002. Based on the said failure report, the first respondent, by G.O.(D) No.1044, Labour and Employment, dated 2.12.2002, referred the issue with regard to the justification of the demand of the second respondent union questioning the order of the petitioner, dated 15.10.2001. The order of reference had been

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sent to the third respondent and it has been taken up on file as a dispute in I.D.No.8 of 2003.

4. The present writ petition has been filed challenging the said reference, on the various grounds mentioned in the affidavit filed in support of the writ petition, stating that the reference had been made by the first respondent without due application of mind on the issue of dispute and that the first respondent ought not to have referred the dispute since the demand raised by the second respondent is clearly contrary to the terms of the settlement, dated 29.2.1996.

5. A counter affidavit has been filed on behalf of the second respondent, supporting the reference of the dispute by the Government for being adjudicated upon. It has been stated that the Government Department concerned had carefully considered the entire background of the events and had passed G.O.(D) No.1044, dated 2.12.2002, to have the dispute duly adjudicated by the labour Court, Tirunelveli. The Labour Court, Tirunelveli, registered the dispute in I.D.No.8 of 2003 and the respondent union had already filed its claim before the said Court. The labour Court had fixed 19.3.2004, as the last chance for the respondent management to file a counter. The management, after having entered appearance and having filed the vakalat before the Labour Court, had chosen to obtain interim stay before this Court by filing a writ petition.

6. The learned counsel appearing on behalf of the petitioner submits that it would suffice if the points and issues raised in the present writ petition are left open to be raised by the petitioner management before the third respondent Labour Court and hence, no order on merits need be passed in the present writ petition. There were no objections from the counsel appearing on behalf of the respondents for such an order being passed by this Court.

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7. Therefore, in view of the submissions made, the third respondent Labour Court is directed to complete the hearing and dispose of the Industrial Dispute in I.D.No.8 of 2003, pending on its file, on merits, within a period of three months from the date of receipt of a copy of this order. The petitioner management is permitted to raise all the points and the necessary issues before the Labour Court.

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8. With the above directions, the writ petition is disposed of. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   State of Tamil Nadu
   Labour & Employment Department,
   Fort St. George, Chennai - 9.

2. The Secretary,
   Nellai Kattabomman Mavataa Anna
   Panchalai Thozhilalar Sangam
   Aravind Spinning Mills Branch
   Vellalankulam, Tirunelveli
   represented by its Secretary.

3. The Presiding Officer,
   Labour Court,
   Tirunelveli

+ 1 cc to M/s. T. S. Gopalan, Advocate, SR No.58456

+ 1 cc to Mr. Mr. Philips, Advocate, SR No.59092

+ 1 cc to the Government Pleader, SR No.58918

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MM(CO)
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